

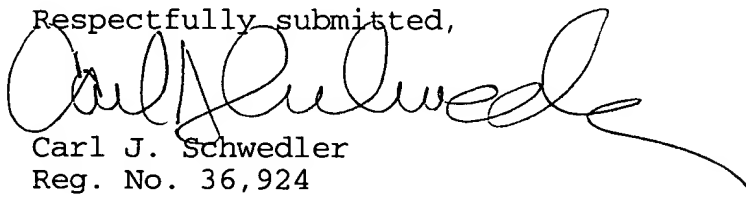
REMARKS

The above amendment provides a reference in the specification to the deposit of construct pCGN3242 in a depository accepted under the Budapest Treaty for patent deposits. This deposit was made to narrow issues for the purpose of appeal of the final rejection of this case. The description of the invention in the specification is complete and detailed and sufficient to enable one ordinarily skilled in the art to practice the claimed invention absent such a deposit. 37 C.F.R. §1.802(c). The deposit is not submitted as an admission or acquiescence on the merits of this rejection. (See *Quad Environmental Technologies Corp. v. Union Sanitary District*, 20 USPQ 1392 (Fed. Cir. 1991)).

CONCLUSION

In view of the above, Applicants submit that the instant amendment is proper, and respectfully request entrance prior to consideration of the accompanying appeal brief.

Respectfully submitted,



Carl J. Schwedler
Reg. No. 36,924

CALGENE, INC.
1920 Fifth Street
Davis, CA 95616
(916) 753-6313